THE HON'BLE SRI JUSTICE BILAL NAZKI

and

THE HON'BLE SRI JUSTICE S.ANANDA REDDY

_

WRIT PETITION Nos.23424 of 2002 & 17537 of 2003

% 15-12-2005

Between:

Indian Oil Corporation Ltd. rep. by its

Authorised Signatory, Sri B.Vasanth Kumar.

.....PETITIONER

AND

M/s.Andhra Pradesh Industrial Infrastructure

Corporation Ltd, rep. by its Exlecutive Director

(Estates &n Admn), and 2 others.

....RESPONDENTS

For the Petitioner : MR.R.Raghunathan

For the Respondents: MR.E.Madanmohan Rao

< Gist:

> Head Note:

? CITATIONS:

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE FIFTEENTH DAY OF DECEMBER
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SRI JUSTICE BILAL NAZKI

and
THE HON'BLE SRI JUSTICE S.ANANDA REDDY

–

WRIT PETITION Nos.23424 of 2002 & 17537 of 2003

Between:

Indian Oil Corporation Ltd., a company

Registered under the companies Act 1956,

Having its State Office at 2nd floor,

3-6-436/438, Naspur House Himayathnagar, Hyderabad, Hyderabad, rep. by its Authorised Signatory,

Sri B.Vasanth Kumar.

.....PETITIONER

AND

1.M/s.Andhra Pradesh Industrial Infrastructure

Corporation Ltd, situated at Parishram Bhavan,

6th floor, Fate Maidan Road, Basheerbagh,

Hyderabad, rep. by its Exlecutive Director

(Estates &n Admn), and 2 others.

.....RESPONDENTS

ORDER: ***(Per Hon'ble Sri Justice Bilal Nazki)***

Heard learned Counsel for the parties.

In these writ petitions, demand notices dated 10-07-2002 and 12-06-2003 have been challenged. The demand notice dt.10-07-2002 pertaining to the assessment years 2000-01, 2001-02 and 2002-03, and the demand notice dt.12-06-2003 pertaining to the assessment year 2003-04 were issued by the respondents in terms of the Andhra Pradesh Panchayat Raj Act, 1994 (for short "the Act").

The case of the petitioner-Corporation is that they are not

exigible to tax under the Act, in respect of the properties owned by them, which do not comprise of houses. Petitioner-Corporation is in the business of marketing petrol products including petrol, diesel, high-speed diesel, liquified petroleum gas and lubricants. For the purpose of efficient distribution of its products, the petitioner has storage tanks at various places. One such LPG bottling plant of the petitioner is situated in the Industrial Development Area, Kadapa. This bottling plant is spread over a large extent of land and consists of various buildings, machinery and LPG storage tanks. It is submitted that the entire bottling plant falls within the jurisdiction of 'Chinnachowk Gram Panchayat'. The respondents are demanding tax, in addition to the houses, for the storage tanks consisting of Horton Sphere and 3 bullets, which cannot be construed to be 'houses' within the meaning of the Act. This position is controverted by the respondents. So the short controversy, which has to be decided in these Writ Petitions is,

> 'Whether the storage tanks which store LPG gas are 'houses' within the meaning of the Act ?'

Sub-section 3 of Section 2 of the Act defines 'buildings' as:

> "*building*" includes a house, out-house, shop, stable, latrine, shed (other than a cattle shed in an agricultural land), hut, wall and any other such structure whether of masonry, bricks, wood, mud, metal or other material whatsoever;"

Sub-section 19 of Section 2 of the Act defines the 'house' as:

> "*House*" means a building or a hut fit for human occupation, whether as a residence or otherwise and includes any shop, factory, workshop or warehouse or any building used for garaging or parking buses or as a bus stand, cattle shed (other than a cattle shed in any agricultural land, poultry shed or dairy shed);"

The case of the petitioner is that every building is not a ‘house’, and for qualifying a building to be a ‘house’, it must be shown that the building was fit for human occupation. If the building is not fit for human occupation, then in that case, that house would be merely a building but not ‘house’. In terms of Section 60 (1) (a) of the Act, only ‘houses’ are exigible to tax and not the buildings, and only a house tax is provided and not any other tax.

Now coming back to the definition under sub-section 19 of Section 2 of the Act, from bare perusal of the definition, it becomes clear that the requirement that a house should be fit for human occupation is only for huts and hut has been defined under Section 20 of the Act, as under:

> ‘ “*Hut*” means any building which is constructed principally of wood, mud, leaves, grass, or thatch and includes temporary structure of whatever size or any small building of whatever material made, which the gram panchayat may declare to be a hut for the purposes of this Act;’

Therefore, these words, ‘hut fit for human occupation’ were added to the definition under Section 2 (19) of the Act, and in our opinion, ‘house’ would include any building, whether used as a residence or otherwise, and would also include shop, factory, workshop, ware-house or a building used for garaging or parking buses. In certain cases, even a cattle shed would be ‘house’ within the meaning of Section 2 (19) of the Act.

There is no requirement for such buildings, to be houses, that they should be fit for human occupation. The requirement that a building should be fit for human occupation is only with respect to the huts and not for other buildings.

In this view of the matter, we feel there is no merit in the writ petitions, which are, accordingly, dismissed. No costs.

(Bilal Nazki, J)

15th December, 2005

(S.Ananda Reddy, J)

Note: L.R.copies to be marked.

B/o

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